

### REMARKS

This amendment is filed in response to the Office Action of August 23, 2007 in which claims 1-8, 12, 13 and 15 were rejected and claim 14 objected to.

#### **Independent claims 12 and 15**

According to the Examiner, the independent device claim 12 would be allowable if combined with claim 14. The limitations of claim 14 have been added to the independent claim 12.

A corresponding amendment has been made to the independent "means-plus-function" type claim 15.

#### **New dependent claim**

A new dependent "means-plus-function" type claim 16 has been added based on the dependent claim 13 (i.e. first location at the center and second location near the edge).

#### **Claim 1**

The Examiner rejects the independent device claim 1 which has now been amended.

Claim 1 now recites a virtual image display device comprising "an imager for providing an image light wave", and "a diffractive grating element arranged to enlarge an exit pupil of said virtual image display".

According to the Examiner, claim 1 as previously claimed did not require the grating to display, or output light, to a plurality of locations for the purpose of projecting an

image, and instead simply required the diffraction grating and virtual display to be within the same device.

The applicant believes what the Examiner is suggesting that the claim should better set forth elements in combination with a structural relationship defined so that a structural relationship is defined.

However, applicant does not agree that the *Ex parte Masham* case, 2 USPQ 2d 1647, 1648 (BPAI 1987) applies in a case such as this where applicant has in fact recited structure not present in the reference. Clearly, the apparatus claims must be structurally distinguishable from the prior art but the *Ex parte Masham* case should not be applied to claims which do differentiate the claimed apparatus from the prior art since, even in claim 1 before the above amendment, it is clear that *Yoshida et al* does not contain a virtual display for displaying graphics in combination with a diffractive grating element arranged to enlarge an exit pupil thereof. *Ex parte Masham* stands for the proposition that where the structural limitations of the claim read on the reference, then a mere recitation of how the claimed combination is to be used (completely submerged in the developer material) is insufficient where the reference showed a mixer with the same structure only partially submerged in the developer material. That is not the case here.

Nonetheless, applicant has amended the claims in keeping with what applicant believes that the Examiner is suggesting i.e., to more fully express the cooperative relationship between the elements.

By the above amendment applicant has amended the independent claims to contain structural limitations such that the device is defined in the preamble as a virtual display device, the first element is amended so as to be directed to an “imager” (see page 3, lines 4-8), and the diffractive grating element is responsive to an image light wave from the imager.

When claim 1 recites an imager such as now claimed in combination with "*a diffractive grating element for enlarging an exit pupil of said virtual display*", a skilled person understands that the imager provides light to the diffractive grating element such that the combination of the imager and the diffractive grating element is capable of enlarging the exit pupil of the virtual display.

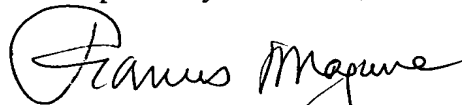
In addition, the skilled person understands from the wording of claim 1 that that the diffractive grating element has the inherent structural features which enable displaying from an enlarged pupil the same graphics as the imager.

Applicant has explained already in the previous response why a hypothetical diffractive grating element comprising the grating of Yoshida is not capable of displaying graphics.

Withdrawal of the obviousness rejections is requested.

The objections and rejections of the Office Action of August 23, 2007, having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of claims 1-8 and 12-15, as amended, to issue is earnestly solicited.

Respectfully submitted,

A handwritten signature in cursive script, reading "Francis J. Maguire". The signature is written in black ink and is positioned above the printed name and title.

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